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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/998,814 | 10/24/2001 | Joseph H. Bartozzi | | 5922 |

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HOLLAND & BONZAGNI, P.C.
171 DWIGHT ROAD, SUITE 302
LONGMEADOW, MA 01106-1700

EXAMINER

THOMSON, MICHELLE R

ART UNIT PAPER NUMBER

3641

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,814

Applicant(s)

BARTOZZI ET AL.

Examiner

Michelle (Shelley) Thomson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 11-14 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The amendment filed 2/5/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the lock means is attached only to the receiver and to no other portion of the firearm and the device configured to selectively block the path of travel of a portion of the action without engaging or extending into an aperture. Applicant's disclosure as originally filed does not support the embodiments as claimed. Applicant has disclosed that the position of the locking device can be at one of a plurality of pre-selected locations chosen to meet certain criteria and Figures 3, 3A, 4 and 4A clearly show the locking device 22 attached to other portions of the firearm rather than just the receiver. Applicant has disclosed the locking device as applicable to any type of firearm but has not disclosed how to meet the 3 location criteria while meeting the claimed attaching only to the receiver criteria. While it is acknowledged that one figure/embodiment of applicant's (Figure 12) does show the locking device only attached to the receiver and engaging without extending into an aperture, applicant's disclosure does not support limiting the attachment only to the receiver in view of the disclosure which repeatedly states that any number of locations are suitable (pages 2, 4, 6, 7, 8, etc.). Furthermore, the disclosure states at page 7, lines 8-11 "the selected component being blocked can be locked or engaged directly (e.g., it can be provided with a hole for receiving the plunger), or the path of its movement can be blocked", also Figures 3, 3A, 4, and 4A clearly show that the portion of the action that is being blocked has an aperture that the blocking device extends through.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-13 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is not clear to the examiner how to make the claimed invention meeting the claimed criteria of the lock means attaching **only** to the receiver while meeting the 3 location criteria disclosed in the specification for **any type of firearm** as disclosed and claimed. Figures 3, 3A, 4 and 4A clearly show the locking device 22 attached to other portions of the firearm rather than just the receiver. While it is acknowledged that one figure/embodiment of applicant's (Figure 12) does show the locking device only attached to the receiver and engaging without extending into an aperture, applicant's disclosure does not support limiting the attachment only to the receiver in view of the disclosure which repeatedly states that any number of locations are suitable (pages 2, 4, 6, 7, 8, etc.). Claim 22, states that the blocking device is configured to block the path of travel without engaging or extending into an aperture of the portion of the action but, the disclosure states at page 7, lines 8-11 "the selected component being blocked can be locked or engaged directly (e.g., it can be provided with a hole for receiving the plunger), or the path of its movement can be blocked", also Figures 3, 3A, 4, and 4A clearly show that the portion of the

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action that is being blocked has an aperture that the blocking device extends through. The claimed invention appears to contradict the disclosure and there is not basis in the specification for the device blocking the path of travel specifically **without engaging or extending into an aperture**.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Justice (US Patent # 5,125,178). Justice discloses a firearm comprising a receiver (reference 20), an action including a hammer (reference 40) attached to the receiver, and an integral lock means (reference 50) for interfering with the hammer (i.e. a portion of the action) when actuated, thereby preventing the firearm from being fired, wherein, the lock means can only be actuated when the hammer is in a half-cocked position (i.e. open position); and the lock means is attached only to the receiver and to no other portion of the firearm (Figure 5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Justice as applied to claim 11 above. Although Justice does not expressly disclose that the blocking device cannot be accessed and/or defeated internally to the extent the firearm can be operatively disassembled when the blocking device is actuated, it is obvious that it could not be accessed even with the firearm disassembled since the blocking device is located in the channel and still could not be accessed internally.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable Justice. Justice discloses a firearm comprising a receiver (reference 20), an action including a hammer (reference 40) attached to the receiver, and an integral lock means (reference 50) for interfering with the hammer (i.e. a portion of the action) when actuated, thereby preventing the firearm from being fired, wherein, the lock means can only be actuated when the hammer is in a half-cocked position (i.e. open position); and the lock means is attached only to the receiver and to no other portion of the firearm (Figure 5). Although Justice does not expressly disclose that the blocking device cannot be accessed and/or defeated internally to the extent the firearm can be operatively disassembled when the blocking device is actuated, it is obvious that it could not be accessed even with the firearm disassembled since the blocking device is located in the channel and still could not be accessed internally.

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strahan (US Patent # 6,405,470). Strahan discloses a firearm comprising a receiver (i.e. the portion of a gun in which the action and firing mechanism are housed) (Figure 1), an action attached to the receiver (the moving parts of a firearm), and an integral blocking device (reference 13) attached to the receiver; wherein the blocking device is configured to selectively block the path of travel

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of a portion of the action (firing pin) without extending into an aperture (Figure 9) therein thereby preventing the firearm from being fired without the need for alignment with, or especial provision of, an aperture in the action; the blocking device can only be actuated when the action is in an open position (Figure 9, column 2, lines 33-45). Although Strahan does not expressly disclose that the blocking device cannot be accessed and/or defeated internally to the extent the firearm can be operatively disassembled when the blocking device is actuated, it is obvious that it could not be accessed even with the firearm disassembled since the blocking device is located in bore 9 and still could not be accessed internally.

Allowable Subject Matter

10. Claim 15 is allowed.

11. The following is an examiner's statement of reasons for allowance: The prior art of record does not anticipate the claimed firearm comprising a n integral locking device attached to the receiver wherein the locking device can be actuated to interfere with a portion of the action and can only be actuated when the action is in an open position, the locking device cannot be accessed and/or defeated internally, the locking device is a plunger lock comprising a lock body attached to the receiver and having an axial bore, a lock plunger disposed in the axial bore and having a helical guide groove, a guide pin attached to the lock body, and a lock key configure to engage an end of the plunger.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mrt

A handwritten signature in black ink, appearing to read "M. Thomson", is located in the lower right portion of the page.